

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOE EARL COLE #173943

PETITIONER

VERSUS

CIVIL ACTION NO. 3:18-cv-770-CWR-MTP

**PATRICIA HALL and
ATTORNEY GENERAL OF MISSISSIPPI**

RESPONDENTS

ORDER

THIS MATTER is before the Court on Petitioner's Motions [49], [58], [61], [70], [73], [74]. Having considered the motions and the applicable law, the Court finds that the Motions [49], [58], [61], [70], [73], [74] should be denied.

Motion [49]

On February 4, 2019, Petitioner filed his Motion [49] for an Extension of Time to Complete Service of Summons. The record reflects that Respondents were served on December 3, 2018 and filed a responsive pleading on December 26, 2018. *See Acknowledgement of Service [14]; Mot. [25].* Petitioner's concerns regarding the cost of service or additional time to serve Respondents is moot.

Motion [58]

On February 19, 2019 Petitioner filed his Motion [58] to Compel to have the expense of "Summons Service" shifted to Respondents. He further seeks an extension of time to serve the Respondent. As discussed above, Respondents have been served and appeared in this action. Any relief Petitioner seeks regarding service of summons is moot.

Petitioner further moves [58] to compel a list of individuals to answer certain questions he has sent them in the mail and to comply with waiver of services of summons. Discovery is not necessary at this time. The Court must first consider Respondent's Motion to Dismiss [25]

and an evidentiary hearing is not appropriate before the current dispositive motion is decided. Petitioner's request to compel discovery from other individuals should be denied.

Motion [61]

On March 7, 2019, Petitioner filed his Motion [61] to Compel. The Motion [61] is a verbatim copy Petitioner's previously filed Motion [58] to Compel. For the reasons explained above, the Motion [61] to Compel should be denied.

Motion [70]

On April 1, 2019, Petitioner filed his Motion [70] for Discovery. The Motion [70] appears to consist of interrogatories and requests for production directed at Respondents but does not explain why Petitioner is entitled to any discovery. Rule 6(b) governing § 2254 cases states “[a] party requesting discovery must provide reasons for the request.” The Fifth Circuit has held that “a petitioner's factual allegations must be specific, as opposed to merely speculative or conclusory, to justify discovery under Rule 6.” *Murphy v. Johnson*, 205 F.3d 809, 814 (5th Cir. 2000). Petitioner has not explained why he needs this discovery and an evidentiary hearing is not necessary at this time as the Court will first consider Respondent's Motion to Dismiss [25] on the parties' written submissions alone. The Motion [70] for discovery, therefore, should be denied.

Motion [73]

On April 5, 2019, Petitioner filed his Motion [73] for “Compel and Comply.” First, Petitioner requests that the Court deny Respondent's motion relating to service of summons. The Court cannot discern what motion Petitioner is referencing. To the extent Petitioner is reasserting his previous motions to serve Respondents and shift the cost of service, the Motion [73] should be denied.

Second, Petitioner seeks an order from this Court compelling his “chief-witnesses” to respond to the documents he has previously sent them and to comply with any future hearings or yet-to-be-issued subpoenas. As considered previously in Petitioner’s Motion [70] for Discovery, Petitioner is not entitled to discovery at this time and has not explained with particularity why he needs discovery. The Motion [73] to Compel should be denied.

Motion [74]

On April 5, 2019, Petitioner filed his Motion [74] for Subpoenas. Petitioner provides a list of individuals he wishes to call as witnesses. He requests that Court issue subpoenas to these witnesses for any hearings that may be held in the future. Again, Plaintiff is not entitled to discovery at this time and the Court will not issue subpoenas for hearings that are not scheduled. The Motion [74] for subpoenas should be denied.

IT IS, THEREFORE, ORDERED that:

1. Petitioner’s Motion [49] for Extension of Time to Complete Service of Summons is DENIED.
2. Petitioner’s Motion [58] to Compel is DENIED.
3. Petitioner’s Motion [61] to Compel is DENIED.
4. Petitioner’s Motion [70] for Discovery is DENIED.
5. Petitioner’s Motion [73] to Compel is DENIED.
6. Petitioner’s Motion [74] for Subpoenas is DENIED.

SO ORDERED, this the 19th day of April, 2019.

s/Michael T. Parker
United States Magistrate Judge